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Sri Amal Chandra Das vs The State Of West Bengal & Others on 6 May, 2025

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Calcutta High Court (Appellete Side)

Sri Amal Chandra Das vs The State Of West Bengal & Others on 6 May, 2025

06.05.2025
Jayanta/01-03

WPA (P) 111 of 2025
Sri Amal Chandra Das
- Versus -
The State of West Bengal & Others
With
WPA (P) 119 of 2025
Aatmadeep
- Versus -
The State of West Bengal & Others
With
WPA (P) 132 of 2025
Purabi Das & Ors.
- Versus -
The State of West Bengal & Others

Mr. Subir Sanyal, Ld. Sr. Adv.,
Ms. Debjani Roy,
Mr. Samil Pal,
Mr. Bikram Banerjee,
Mr. Sudipta Dasgupta,
Ms. Sinjini Chakraborti,
Mr. Baibhav Roy
... for the Petitioners
(in all matters).
Mr. Kishore Datta, Ld. A.G.,
Mr. Sk. Md. Galib,
Ms. Priyamvada Singh
... for the State
(in WPA (P) Nos 111 & 119 of 2025).

Mr. Tapan Dutta
Ms. S. Shaw
... for the State
(in WPA (P) 132 of 2025).

Mr. Abhratosh Majumder, Ld. Sr. Adv.
Mr. Debanjan Mandal,
Mr. Sandip Dasgupta,
Mr. Deepan Sarkar,
Mr. Aviroop Mitra,
Mr. Samriddha Sen,
Ms. Deepti Priya
... for the State Commission
(in all matters).

Mr. Ashok Kumar Chakraborty, Ld. ASG,
Mr. Kumar Jyoti Tewari,
Ms. Amrita Pandey
... for the National Commission
(in all matters).
Mr. Amitava Choudhury
Mr. N. Roy
Mr. Pradipta Siddhanta
... for the Secretary.
(WB Cooperative Service Commission).

Mr. Utpal Bose

Mr. V. Chatterjee
... for the Respondent No. 14 & 15.

1. The subject Public Interest Litigations challenge communications issued by the office of the District Welfare officer, Government of West Bengal, dated 1st March, 2025 to all SDOs, Nadia District and all the BDOs, Nadia and all the District Magistrates in the State of West Bengal. The letter proposed to communicate the number of enumerators/ surveyors to be deployed for conducting a "Bench Mark Survey" in the State.

2. The survey was for ascertaining and identifying the backward classes and communities in the State for the purpose of Article 16 (4) of the Constitution of India.

3. Mr. Subir Sanyal, learned senior advocate appearing for the petitioner would argue firstly that the communication should have been issued by the Backward Classes Commission and not by the State.

4. He secondly argues that the list of 117 classes proposed to be surveyed, includes the same very classes and all belonging to one religious community which were struck down by this Court in a judgement dated 22nd May 2024 passed in Amal Chandra Das and Ors. v. The State of West Bengal and Ors. He further submits that the

classes to be surveyed should have been identified by the Backward Classes Commission of the State.

5. He further argues that the process of Bench Mark Survey and the criteria that would be factored in such survey is not disclosed.

6. Mr. Abhrotosh Majumder, learned senior advocate appearing for the Backward Commission submits that the list of classes and the proposed Bench Mark Survey would be conducted by the Backward Classes Commission to the State. This Court is not

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prima facie satisfied with the same. The issue would be decided after receipt of affidavits from the parties.

7. On the question of advertisement for identifying and inviting Backward Classes to apply or be identified, Mr Majumdar would argue that the scheme of Section 9 of the Act of 1993 conceives of advertisement only before the public hearings after receiving applications.

8. Mr. Majumdar further submits that the impugned communication only deals with listing of the number of identifiers and enumerators required for the purpose of the survey. The processes is ongoing.

9. Upon receipt of the applications for inclusion from the said classes and after scrutiny by the Commission, advertisements have been published

in terms of Section 9(1), of the Act of 1993. The advertisements were meant to invite objections to over-inclusion and/or under-inclusion of classes.

10. It is submitted that advertisements have been issued and public hearings are on. The said hearing, as of now, is likely to continue till the end of this month. Simultaneously, surveys are also being conducted.

11. This Court notes that in terms of paragraph 360 of this Court's judgment dated 22nd May, 2024 (supra), the Commission is to conduct surveys of all backward classes in the State to ensure the benefit of Article 16 (4) of the Constitution of India to all such Classes and not to any particular set of classes.

12. Mr. Abhratosh Majumdar, representing the Commission, on instructions from his client, submits that his clients are now willing to so identify and conduct surveys of all backward classes in the State

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13. In view of submissions of the Commission and the directions already contained at particularly para 360 of the judgment dated 22nd May, 2024 (supra), this Court assumes and directs the Backward Classes Commission of the State to publish advertisements of the proposed survey and

5

widely circulate the same all over the State starting at the village level.

14. The advertisements should spread awareness of the identification and survey to be conducted by the Commission so as to enable all Classes and communities in the State, who consider themselves or are, backward, to fill in applications in the format available on the Commission's website, or be identified by the Commission.

15. For the aforesaid proposes all the DMs in the State and BDOs and the Officers under them shall make all efforts to assist such classes, in making applications, as indicated above. The DMs and BDOs shall themselves assist the Commission in identifying such Backward Classes.

16. The advertisements shall be published in widely circulating newspapers in the Bengali Vernacular and any other locally prevalent languages and circulating newspapers within the State in the respective districts. The DMs SDOs in the State shall through their officers at the village level must also spread awareness amongst the backward and uneducated in this regard.

17. Let affidavit-in-opposition, indicating compliance of the above process be filed by the Commission by 19th June, 2025 when the matter shall be listed again. Advance copy of the affidavit be made

6

available to the Counsel for the Writ Petitioners by 15th June, 2025.

18. The maintainability of the Writ Petitions is kept open on all counts.

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19. Let the NCBC be impleaded as an added respondent to WPA 119 of 2025.

(Rajasekhar Mantha, J.) (Tapabrata Chakraborty, J.)

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